

# MAINE APPRAISER NEWSLINE

MAINE BOARD OF REAL ESTATE APPRAISERS

SUMMER 2004



A Few Words From the Chairman

James H. Murphy



Since it has been a while since the board has produced a newsletter, this edition of the **MAINE APPRAISER NEWSLINE** is primarily to update licensees on disciplinary action taken by the board in the last few months. The board feels it is very important for licensees to be aware of the types of issues and the subsequent disciplinary action dispensed by the board. All disciplinary action is also posted on the web site, [www.MaineProfessionalReg.org](http://www.MaineProfessionalReg.org), under the button marked "Adverse Disciplinary Action". It is the board's hope that each individual will reflect on their own work and whether it reflects appropriate ethical behavior as deemed by the Uniform Standards of Professional Appraisal Practice (USPAP).

## Complaint Officer's Report

Joe Herlihy

In all instances the parties to consent agreements are the Licensee, the Maine State Board of Real Estate Appraisers and the State of Maine Department of the Attorney General. These presentations are necessarily abbreviated; the entire file may be inspected at the offices of the Department of Professional and Financial Regulation in Gardiner, Maine.

In addition to the cases recited herein, the board has the option of issuing letters of guidance when activity does not rise to the level where violations occurred, but were a close call. Several of these letters have been issued, but this newsletter only publishes cases where there had been an admission (Consent Agreement) of violation(s) or a decision and order has been issued.

One case was referred to the Attorney General.

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## UPCOMING BOARD MEETINGS

SEPTEMBER 7, 2004	MAY 3, 2005
OCTOBER 5, 2004	JUNE 7, 2005
NOVEMBER 2, 2004	JULY 5, 2005
DECEMBER 7, 2004	AUGUST 2, 2005
JANUARY 4, 2005	SEPTEMBER 6, 2005
FEBRUARY 1, 2005	OCTOBER 4, 2005
MARCH 1, 2005	NOVEMBER 1, 2005
APRIL 5, 2005	DECEMBER 6, 2005

## LICENSE STATS

REGISTERED APPRAISER TRAINEE	224
LICENSED RESIDENTIAL APPRAISER	164
CERTIFIED RESIDENTIAL APPRAISER	217
CERTIFIED GENERAL APPRAISER	264
TOTAL	891

## Complaint Officer's Report Continued

*Continued from page 1....*

It is important that any past criminal convictions/records be revealed when applying for or renewing a license/certification. Not all criminal convictions cause a basis for denial, but when requested, the licensee must provide complete disclosure of all criminal convictions. This relates directly to the following four cases:

**REA 139** On February 5, 2002 the Board entered into a consent agreement with Pamela L. Cohen, RA 1565 wherein the licensee admitted that she failed to disclose a criminal conviction on her license application. Licensee agreed to a warning and a \$150 civil penalty.

**REA 138** On February 11, 2002 the Board entered into a consent agreement with Todd D. Jones, RA 1436 wherein the licensee admitted that he failed to disclose a criminal conviction on her license application. Licensee agreed to a warning and a \$200 civil penalty.

**REA 180** On July 31, 2003 the Board entered into a consent agreement with Jody L. Hibbard RA 1814 wherein the licensee admitted that she failed to disclose a criminal conviction on her license application. Licensee agreed to a warning and a \$200 civil penalty.

**REA 194** On January 21, 2004 the Board entered into a consent agreement with Mark A. Plummer, RA 1887 wherein the licensee admits that he violated 32 M.R.S.A. §§ 14014(1)(A) by failing to disclose past criminal conviction on his application for licensure. He agreed to pay a monetary penalty of Two Hundred (\$200.00).

Under 32 M.R.S.A. ¶ 14004(2) Brokers or Associate Brokers are exempt from 'Real Estate Appraisal Activity' (ref. 32 M.R.S.A. ¶14002 (12), but any Brokers opinion must include a statement which in its last sentence states: 'It was not prepared by a licensed or certified ap-

praiser, etc.' An individual dually licensed as a Broker/Associate and Real Estate Appraiser license must comply with USPAP when preparing an appraisal. This relates to the following case:

**REA 143** On July 17, 2002 the Board entered into a consent agreement with Linda M. Watters, RA 1410 wherein the licensee admitted that she committed various violations of the statutes relating to real estate appraising. Licensee agreed to a reprimand, a 90 day suspension and was issued a \$500 civil penalty.

### OTHER CASES:

**REA 164** On December 3, 2002 the Board entered into a consent agreement with Lionel J. Roy, AP 1412 wherein the licensee admits that he violated 32 M.R.S.A. §§ 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, 14014(1)(I) and 14014(1)(J), he accepted a reprimand, and agreed pay a monetary penalty of \$1,500. The violations of USPAP and State Statute relate to the improper selection and application of sales data not truly comparable to the subject property, when in fact other more



truly comparable sales data was available. These errors showed a significant difference in value affecting the credibility of the results. A complaint was made by a property owner involved in a divorce when the appraiser changed his value conclusion by +\$55,000 as a result of a communication with an attorney, issuing a separate report as of the same date using three different comparable sales.

**REA 162** On February 11, 2003 the Board entered into a consent agreement with Pamela L. Cohen RA 1565 wherein the licensee admits that she violated 32 M.R.S.A. §§ 14014(1)(B), 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, USPAP, 4014(1)(I), 14014(1)(J) and 14014(1)(L) she accepted a reprimand for each violation, and agreed pay a monetary penalty of \$1,250, enroll and successfully complete a basic appraiser course approved by the Board, not creditable to continuing education requirement. Based on a complaint by a certified appraiser, the violations of USPAP and State Statute relate to the misrepresentation of the subject property as a single family residence when it was obviously not at the time of the appraisal: the lack of disclosure of any extraordinary assumptions or hypothetical conditions related to the same: misrepresentation of the actual nature of the immediate neighborhood setting and zoning classification: and the lack of competence (local market knowledge) demonstrated in the comparable sales selection and application of the appraisal process.

**REA 163** On February 11, 2003 the Board entered into a consent agreement with John L. McKinnon CR 417 wherein the licensee, while acting as a Supervisor, admits that he violated 32 M.R.S.A. §§ 14014(1)(B), 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, USPAP, 4014(1)(I), 14014(1)(J) and 14014(1)(L) he accepted a reprimand for each violation, and agreed pay a monetary penalty of \$2,500 plus \$385 investigative costs, enroll and successfully complete a basic appraiser course and a course in highest and best use, approved by the Board, not creditable to continuing education requirement. Based on a complaint by a certified appraiser, the violations of USPAP and State Statute relate to the misrepresentation of the subject property as a single family residence when it was obviously not at the time of the appraisal: the lack of disclosure of any extraordinary assumptions or hypothetical conditions related to the same: misrepresentation of the actual nature of the immediate neighborhood setting and zoning classification: and the

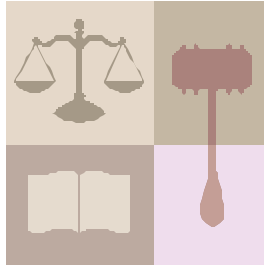
## Complaint Officer's Report Continued

lack of competence (local market knowledge) demonstrated in the comparable sales selection and application of the appraisal process.

**REA 152** On February 19, 2003 the Board issued a decision and order to Bertrand E. Berube CG 233 wherein by a vote of 5-0 the Board found the licensee in violation of 32 M.R.S.A. §§Section 1, 14014(1)(I), 14014(1)(J) and 14014(1)(G), USPAP SR1-1(b), 1-1(c), 1-4(b)(i)(ii)(iii)(iv)(v)(vi) and SR 2-1(a). The Board ordered the revocation of his license, imposed a \$1,500 fine and hearing costs of \$1,187.76. Based on a complaint by FNMA that alleged significant overstatement of value based on less than comparable sales data, with which the Board concurred.

**REA 151** On April 8, 2003 the Board issued a decision and order to Donna L. Herring AP 223 wherein by a vote of 4-0 the Board found the licensee in violation of 32 M.R.S.A. §§Section 1, 14014(1)(B), 14014(1)(I), 14014(1)(J) and 14014(1)(G), USPAP Ethics Rule, Competency Provision, Departure Rule and SR 1-1(a), 1-1(b), 1-2(e)(i,ii,iv,v), 1-2(f), 1-3(a), 1-3(b) and SR 2-1(a)(b) and (c), 2-2(b)(i,iii,iv,v,vi,vii,ix,x,xi). The Board ordered the licensee's license to be suspended for 90 days, placed on probation until December 31, 2004, attend and pass a 15 hour USPAP course, basic appraisal course and annual 2003 USPAP course, in addition to her required continuing education courses, provided the suspension shall be lifted, if the courses are taken and passed before the expiration of the 90 days. She will pay costs of hearings which totaled \$6,436.00. Forward to the Board a list of all appraisals performed after suspension is served, from which it shall randomly select for review. The complaint was made by a property owner and concerned an appraisal of 44+/- parcels, involving abandoned railroad beds, slate mines, gravel pits, waterfront parcels on small lakes and ponds, unbuildable sub-minimum lot size, wetlands, shore land zoning, several landlocked parcels and the like. The licensee in one month provided 44 form reports, deficient in numerous respects.

In many instances the sales data was not at all comparable to the subjects. There were numerous errors of omission and commission regarding the land parcels r



elating to incorrect land areas, zoning, utilities, ownership, missing legal descriptions, site plans and flood maps, etc.

**REA 159** On July 10, 2003, the Board entered into a consent agreement with Irma T. Buckley RA 1551 wherein the licensee admits that she violated 32 M.R.S.A. §§ 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, USPAP, 14014(1)(J) and accepted a warning for each violation, and agreed to pay a monetary penalty of \$900, enroll and successfully complete a basic appraiser course approved by the Board, not creditable to continuing education requirement. The complaint was made by a certified appraiser and centered on apparent misrepresentation regarding errors of omission (neighborhood/site influence) and commission (inconsistent adjustments for time/ age/condition/ quality). The adjustments made had no basis of support were inconsistent and not credible. The range of final indications varied by 167%, and failed to support the conclusion of value, serving to demonstrate a lack of competence, due diligence and/or experience.

**REA 160** On June 20, 2003, the Board entered into a consent agreement with Candace J. Morong CR 531 wherein the licensee admits, while acting as a Supervisor, that she violated 32 M.R.S.A. §§ 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, USPAP,

14014(1)(J) and accepted a censure for each violation, and agreed to pay a monetary penalty of \$1,500, pay investigative costs of \$412.50, enroll and successfully complete a basic appraiser course approved by the Board, not creditable to continuing education requirement. The complaint was made by a certified appraiser and centered on apparent misrepresentation regarding errors of omission (neighborhood/site influence) and commission (inconsistent adjustments for time/age/condition/ quality). The adjustments made had no basis of support were inconsistent and not credible. The range of final indications varied by 167%, and failed to support the conclusion of value, serving to demonstrate a lack of competence, due diligence and/or experience.

**REA 146** On August 28, 2003, the Board entered into a consent agreement with Robert A. Davis, CG 656 wherein the licensee admits that he violated 32 M.R.S.A. §§ 14014(1)(B), 14014(1)(G), 14104(1)(I) and 14014(1)(J) as it relates to Board Rules, Chapter 240, Section 1, and accepted four reprimands one for each violation, and agreed to pay investigative costs of \$787.50 and surrender his license. The complaint was made by a certified appraiser and centered on an appraisal done on a commercial mixed use property. The report contained numerous errors and omissions, including: no scope of work, no highest and best use analysis or conclusion, no land sales presented nor discussion of depreciation or obsolescence and the income approach contained no market rental data.

**REA 173** On November 1, 2003, the Board entered into a consent agreement with Rod R. Berube AP 794 wherein the licensee admits that he violated 32 M.R.S.A. §§ 14021 (1) and 14014(1)(G) as it relates to Board Rules, Chapter 110 and reprimand, and agreed to pay a monetary penalty of \$1,500, and investigative costs of \$50, accept a 90 day

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## Complaint Officer's Report Continued

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suspension. Pay all future fees by certified check or money order. The complaint was initiated by the Assistant



Attorney General and involved the licensee providing a check for his renewal that was returned for insufficient funds and then failing to respond to six notices sent requesting his licensure fee.

**REA 166** On October 7, 2003, the Board entered into a consent agreement with Roger K. Beesley CR 1662 wherein the licensee admits that he violated 32 M.R.S.A. §§ 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, USPAP SR 1-1(c) and 32 M.R.S.A. §14014(1)(J) accepted a reprimand and agreed to pay a monetary penalty of \$1,000, pay investigative costs of \$672.50 and complete a 7 hour USPAP course not creditable towards continuing education requirements. This complaint was initiated by a homeowner and involved the appraiser failing to provide an itemized list of specific alterations in the satisfactory completion certificate and by failing to describe how, if at all, such alterations impacted the final appraised value of the property.

**REA 167** On October 16, 2003, the Board entered into a consent agreement with Robert L. Crossman CR1718 wherein the licensee admits, while acting as a Supervisor, that he violated 32 M.R.S.A. §§ 14014(1)(B), 14014(1)(G) as it relates to Board Rules, Chapter 240, Section 1, USPAP, 32 M.R.S.A. §14014(1)(I), 14014(1)(J) he accepted a reprimand for each violation and agreed to pay a fine of \$4,000, pay investigative costs of \$375 and have his license revoked. This complaint was initiated by a certified appraiser acting as a

Reviewer and involved an appraisal wherein the comparables used were not truly comparable and other more comparable sales data was readily available. The appraisal exhibited incompetence & misrepresentation and showed carelessness in the supervision and review process.

**REA 177** On November 18, 2003, the Board issued a decision and order to Libby M. Chandler RA 1729 wherein by a vote of 5-1 it found the licensee in violation of 32 M.R.S.A. §§ 14014(1)(G), USPAP Ethics, Conduct and Competency, SR-1-1(a)(b)(c) and 32 M.R.S.A. §14014(1)(I), 14014(1)(J) 14014(1)(G). The Board ordered the revocation of her license, imposed a fine of \$2,000 and hearing costs of \$1,204.51. This complaint was initiated by a certified appraiser acting as a Reviewer and involved an appraisal wherein the comparables used were not truly comparable and other more comparable sales data was readily available. The appraisal exhibited incompetence & misrepresentation and demonstrated a lack of understanding and/or carelessness on the part of the Licensee, who apparently had not received adequate supervision-review on this assignment

**REA 181** On December 17, 2003 the Board entered into a Consent Agreement with Jennie Cook, AP 1691 wherein the licensee admits she violated 32 M.R.S.A. §§14014(1)(G) as it relates to Board Rules Chapter 240, Section 1(USPAP violation: SR-1-1(b)(c) and 2-1(a) and 32 M.R.S.A. §§14014(1)(I) and (J). The Board found there was a lack of diligence and competence, though no evidence such was intentional or fraudulent, in the development of an appraisal report. Ms. Cook agreed to accept a warning; pay a monetary penalty of \$500 for each of the 3 statutory violations, to be suspended pending completion of the other terms of this agreement, pay investigative costs of \$470.48 and enroll in and complete a 30 hour basic course and pass an examination, not creditable to continuing education.

**REA 168** on April 26, 2004 the Board issued a decision and order to Donna Herring AP 223 wherein by a vote of 5-0 the Board found the licensee in violation of 32 M.R.S.A. §§ 14014(1), (B) (G)(I) & (J), USPAP SR1-1(b) & (c) and SR2-1(a). Ms Herring did not appear to admit to any misconduct or instances of incompetent appraisal practice but instead attributed expert testimony finding violations of Board Statutes and Rules attributable to her actions to be a "matter of opinion." Most important to the Board was the fact that a core standard of the appraisal profession was violated by conspiring with the mortgage company to arrive at a predetermined value of the Complainants property. This was found to be an extremely serious violation mandating strict sanctions, particularly since the public's trust in the appraisal profession was undermined. The Board ordered the revocation of her license for a period of 2 years. A fine of \$500 per violation for 9 violations or a total of \$4,500, ordered to pay costs of hearing of \$3,931.96.

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## **OBSERVATIONS OF A NEW BOARD MEMBER**

BY  
WALTER "TERRY" BOWDITCH

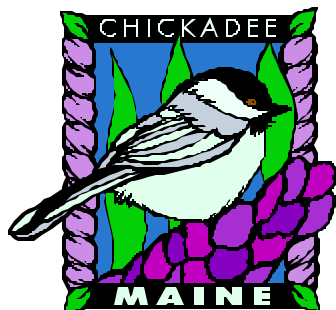
I'm Walter Bowditch, known to most people as Terry, a certified general appraiser and a principal in Bowditch & Perkins Appraisal Services of Waterville and Skowhegan. I do commercial and conservation appraisals.

I was appointed by Governor King at the end of 2002 to fill a 3-year term for appraiser-at-large on the Maine Board of Real Estate Appraisers. I started in January 2003 and it's been a work filled 1-½ years.

Each month we have dealt with everything from the mundane logistics of the operations of the Board itself, license renewals and upgrades to initial complaints against licensees, consent agreements and adjudicated hearings.

The board consists of both fellow appraisers and two members from the public. The board members, both public and the appraisers, are active and well versed in the task at hand.

It has been an interesting and educational 1-½ years and I look forward to fulfilling my term.



**THIS PUBLICATION IS PROVIDED FOR LICENSEES UNDER APPROPRIATION 014-02A4695 012, A DEDICATED REVENUE ACCOUNT CONSISTING OF FUNDS COLLECTED FROM LICENSING FEES**



.....Note from Kim

Renewal notices will go out in late October. If you have had a change of address and have not notified the office you need to do so NOW. Renewal mailers are not automatically forwarded even if you have a forwarding order. So, send me a fax (207-624-8637) or an email (kimberly.j.baker-stetson@maine.gov) to make sure you receive your license renewal. If you can't remember if you notified us or not just give us a call.

Remember the board now has an audit process for verification of continuing education. When you complete your renewal form there is a check box for you to indicate whether or not you have fulfilled the CE requirements for renewal. Check the appropriate box and submit only the renewal form and your payment. In January, a random list of names will be computer generated and notices of audit will be sent out. Licensees selected for the audit must submit verification of 28 hours of board approved continuing education; 7 of these hours must have been a National USPAP course.

I'd also like to remind licensees that you may also renew your license on-line at our web site. The web address for the Department is: [www.MaineProfessionalReg.org](http://www.MaineProfessionalReg.org) Once at the site click on the following buttons:

- ◆ Renew an Existing License
- ◆ In the drop down box under "Licensing Board" select "Real Estate Appraisers"
- ◆ Type in your entire license number including the two letter prefix
- ◆ The rest is reasonably self-explanatory
- ◆ Do make sure you print off the confirmation number of the transaction. This is your receipt and verification should something go wrong.

You may use VISA or MASTERCARD only. As with any renewal, it will take a few days to process the renewal. Don't assume the transaction has been successful until you see the new expiration date next to your name on the web site. Do verify your renewal via the web site by clicking on the button labeled "Find a Licensee" and just type in your last name after choosing the license type. You do not need to fill in all of the boxes; entering the last name only will work just fine.

MAINE BOARD OF REAL ESTATE APPRAISERS

OFFICE OF LICENSING AND REGISTRATION  
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION  
35 STATE HOUSE STATION  
AUGUSTA, ME 04333-0035

JAMES MURPHY, CR

-BOARD CHAIR-

DAVE ADAMS, PUBLIC MEMBER

BRUCE W. BELL, PUBLIC MEMBER

WALTER (TERRY) BOWDITCH, CG

KENNETH P. CHAREST, CG

JOSEPH P. HERLIHY, CG

-COMPLAINT OFFICER-

THEODORE H. WEBERSINN, CG

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**CONTACT ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**CITY** **STATE** **ZIP**

**CONTACT PHONE #:** \_\_\_\_\_

**FAX:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_